APPENDIX.

Statements of Judge Diggs and Mr. John M. Goldesberry and Wills as to what was done at the hearings on the application for approval of compromise agreement and entry of decree.

Mr. Wills, counsel for Mid-Continent Petroleum Corporation (R. 670-671):

> "* * * I think I know exactly what took place. As I recall, there was no witness called, and sworn as to whether—as to the desirability of this agreement. That is my recollection. That the only oral statement made was that by Judge Stuart, the guardian *ad litem;* and then Judge Kennamer turned around and asked me the question if we agreed, and by inclination of his head, to the other attorneys, impliedly asked the same question, and they agreed. Now that is according to my recollection as to what actually took place."

John M. Goldesberry sworn as witness testified (R. 672):

He is United States District Attorney handling the Government's interest in the litigation.

He was to some extent familiar with the litigation but Mr. Louis Stivers his assistant "principally and primarily" handled the Government's representation.

He was present when the final decree was entered.

First learned of the case being taken up for the entering of the decree—the same morning.

Recalls that Judge Diggs, Mr. Schwabe, Judge Stuart, guardian *ad litem*, were there, and believes Mr. Wills was there.

There was no witness sworn to testify, or examined.

A. As I recall it, about what happened was, just about what Judge Diggs stated there a while ago.

Q. (By Mr. Rogers:) Just agreed on entering the decree?

A. That is my best judgment about it.

Again:

A. There was no oral testimony introduced in evidence, and what documentary evidence, if any, has been submitted to Judge Kennamer, prior to that time, I am not in position to say.

Q. It was a 'consent decree'?

A. That was my recollection.

STATEMENT OF JUDGE DIGGS, UNDER OATH.

Was present when Judge Kennamer signed the final decree on July 11th, 1929. (R. 679)

Mr. George S. Ramsey was present; Judge Stuart was present. (R. 679)

Mr. Denton or Mr. Wills; and Mr. George Schwabe; and some other attorney he did not know.

On July 11th, the day of the filing or making of the final decree the quadruplicate copy of the final decree was presented in open court, together with the letter of approval of the Acting Secretary, Mr. Dixon—and also the letter from the Department of Justice, indicating approval. (R. 679)

Q. (By Mr. Wills:) All right, now, on July 11th, 1929, do you recall any other document being presented to Judge Kennamer?

A. A motion for compromise—I may get a little broader than the question is—if the court please—the motion for compromise was presented by Judge Stuart; attached to it was the appointment of two of these guardians. (R. 679)

Q. And what guardians do you refer to? Mr. Hall?

A. Appointed by Okmulgee County Court——

Q. And Hall?

A. And J. Riley Hall. (R. 680)

Q. I see—I understand.

A. When Judge Stuart presented the application, the court in substance remarked to Judge Stuart: 'Should this be approved, or do you agree to it?' Judge Stuart replied, in substance, this: 'I think it is doubtful whether the defendants could recover, but under all the circumstances, I think the agreement should be approved.' As near as I can recollect, that was his exact words. (R. 680)

Q. Now, do you recall any further statement of Judge Stuart?

A. At that time, I do not.

Q. (By Mr. Wills:) What statement, Judge Stuart, and the other parties, Judge Ramsey, and yourself, or anyone else made there, immediately preceding the signing of the decree? (R. 682)

A. As I recall, Mr. MacMullen sent me the original of the compromise agreement, with the approvals of the Department and Judge Kennamer thereon. I presented this to Judge Kennamer, in open court. I think on the same date, I delivered to the clerk of the court the check for $35,000.00 that had been —was to be—the consideration. (R. 682)

By the Court: The specific question was, What statement, if any, did Judge Stuart make on that occasion.

A. I don't believe he made any specific statement.

Q. (By Mr. Wills:) Well, what about you, did you make any specific statement on that occasion, other than presenting these things, showing the approval of the Department and the approval of the different guardians that were to approve it? (R. 682)

A. Other than presenting these things, showing the approval of the Department and the approval of the different guardians that were to approve it.

Q. Do you remember whether Judge Kennamer asked

any questions of any parties that were interested in the matter? (R. 682)

A. That is one point that I am not certain. He asked a question, but whether it was July 11th, or June 13th, I cannot recall. He asked Judge Stuart the question that I have before stated here, with Judge Stuart's answer. He looked at me and asked if I agreed. I either said 'yes,' or gave an assent; he then looked to the other attorneys with a look of inquiry, but did not direct any specific question to them, and they all gave assent. That is what, I think, took place. (R. 682-683)

Being asked if anything else occurred on July 11th, witness answered (R. 683):

A. I think I have given you substantially the transaction; at least I have endeavored to do so.

Now, with reference to the session on June 13th, the witness was asked: What (R. 683) if any statements were made on that occasion, by anybody? The witness answered:

A. None, except what I have related. (R. 683)

The Court's attention is called to the fact that the statement made by Judge Stuart, as detailed by Judge Diggs, was on June 13th, when he made application for the approval of the compromise agreement, and not on July 11th, when the decree was signed.